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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,475	08/22/2001	Mark W. Hendricksen	Radpat	8985
7590 Mark W. Hendricksen 10805 E. 22nd Avenue Spokane, WA 99206			EXAMINER LEE, JOHN J	
			ART UNIT 2684	PAPER NUMBER
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/935,475	Applicant(s) HENDRICKSEN, MARK W.	
	Examiner JOHN J. LEE	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-26, 35-38 and 49-52 is/are allowed.
- 6) ☒ Claim(s) 27, 31-34, 39-48 and 53 is/are rejected.
- 7) ☒ Claim(s) 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments/Amendment

1. Applicant's arguments/amendments received on September 19, 2005 have been carefully considered but they are not persuasive because the teaching of all the cited reference reads on all the rejected claims as set forth in the pervious rejection. Therefore, the finality of this Office Action is deemed proper.

Contrary to the assertions at pages 18 - 24 of the Arguments, claims 27, 39, 45, and 47 are not patentable.

During examination, the USPTO must give claims their broadest reasonable interpretation.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Smith, Jr. (6,697,607) reference teaches a broadcast receiver such that radio, wireless device, or mobile station, is received broadcast signals and automatically tunes and detects preselected signal source, specific events, sporting contest, in wireless broadcast communication system, and Scrivens (6,728,518) also teaches a broadcast receiver performs receiving, detecting, and tuning a radio signal broadcast for a specific signal source in wireless broadcast

communication system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Smith system as taught by Scrivens, provide the motivation to enhance tuning and detecting control for receiving a special broadcast signal in wireless broadcast communication system.

Re claims 27, 39, 45, and 47: Applicant argues that the combination of teaching of Smith and Scrivens do not teach the claimed invention “the radio apparatus may not readily change that the radio signal receiver only receives a radio signal”. However, The Examiner respectfully disagrees with Applicant’s assertion that the combination of teaching of Smith and Scrivens do not teach the claimed invention. Contrary to Applicant’s assertion, the Examiner is of the opinion that Smith teaches during predetermined time of tuning to the power-on signal source, a user preferably may override the automatically tuned signal source to receive a user’s selected source such that by selecting a tune up, tune down or other radio button preset key (Fig. 2, 3 and column 5, lines 50 – column 6, lines 28), regarding the claimed limitation. More specifically, if the radio receiver has power on sequence, the user can not change the station, only receiving a radio signal from a radio station.

Furthermore, Applicant argues that the combination of teaching of Smith and Scrivens do not teach the claimed invention “the radio signal receiver being capable of receiving a plurality of frequencies of radio signals”. However, The Examiner respectfully disagrees with Applicant’s assertion that the combination of teaching of Smith and Scrivens do not teach the claimed invention. Contrary to Applicant’s assertion, the Examiner is of the opinion that Smith teaches a broadcast receiver is radio that

receives a plurality of frequencies of radio signal from a plurality of radio station (column 2, lines 37 – column 3, lines 20, Fig. 2, and column 6, lines 45 – 63), regarding the claimed limitation.

Applicant's attention is directed to the rejection below for the reasons as to why this limitation is not patentable.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 27, 31 – 34, 39 – 48, and 53** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith Jr. et al. (6,697,607) in view of Scrivens et al. (US Patent number 6,728,518).

Regarding **claim 27**, Smith discloses that radio apparatus (Fig. 1). Smith teaches that a radio signal receiver (Fig. 1) secured relative to the outer encasement (inherently radio having outer encasement in Fig. 1), and configured to receive at least one radio signal (Fig. 2 and column 4, lines 3 – 58, where teaches the broadcast receiver as radio receives a plurality of frequencies of radio signals). Smith teaches that an audio output operatively connected to the radio signal receiver (3 in Fig. 1) (Fig. 1 and column 2, lines 1 – 29). Smith teaches that a frequency tuner (3 in Fig. 1) capable of receiving a plurality of frequencies of radio signals (Fig. 2 and column 4, lines 3 – 58, where teaches a broadcast receiver such that a radio, television, or web browser, or PDA that can receive

a plurality of frequencies of radio signals) is located inside the outer encasement (inherently, the standard radio has a frequency tuner located in outer encasement, column 4, lines 3 - 21) such that once the tuner is set to a pre-determined radio signal frequency (receiver can automatically tuned to preselected signal source, station lock) representing broadcast services of a radio station (the controller is provided with control outputs to the tuner, which allow the controller to select a frequency and a band for the tuner to demodulate such that station lock, information channel detected as see column 4, lines 61 – column 5, lines 25 and Fig. 1, 2).

Smith does not specifically disclose the limitation “a radio signal receiver secured relative to the outer encasement that the outer encasement fixed in a closed position, the tuner is not normally accessible by a user of the radio apparatus, and a frequency tuner is located inside the outer encasement”. However, Scrivens teaches the limitation “a radio signal receiver secured relative to the outer encasement that the outer encasement fixed in a closed position, the tuner is not normally accessible by a user of the radio apparatus, and a frequency tuner is located inside the outer encasement” (column 2, lines 12 – column 3, lines 46 and Fig. 1, 2, where teaches radio signal receiver (12 in Fig. 1) is secured by the outer encasement that the outer encasement covered in a fixed position, and a frequency tuner located in the outer encasement). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Smith structure as taught by Scrivens. The motivation does so would be to achieve enhancing outer encasement of a radio device for protecting broadcast receiver in radio device.

Regarding **claim 31**, Smith discloses that the radio signal receiver is configured to only receive the broadcast signal of a pre-determined frequency, representing broadcast services of the radio station (the controller is provided with control outputs to the tuner, which allow the controller to select a frequency and a band for the tuner to demodulate such that station lock, information channel detected as see column 4, lines 61 – column 5, lines 25 and Fig. 1, 2).

Regarding **claim 32**, Smith discloses that the radio signal receiver is configured to multiple broadcast signals of different frequencies, and the audio output is configured to receive only output radio signals received of the pre-determined frequency, representing broadcast services of the radio station (Fig. 2 and column 4, lines 3 – column 5, lines 25, where teaches a broadcast receiver such that a radio, television, or web browser, or PDA that can receive a plurality of frequencies of radio signals, and the controller is provided with control outputs to the tuner, which allow the controller to select a frequency and a band for the tuner to demodulate such that station lock, information channel detected).

Regarding **claim 33**, Smith discloses that the audio output is set to only output radio signals received of the predetermined frequency through a mechanical setting of the audio output to the predetermined radio station (column 5, lines 28 – column 6, lines 41 and Fig. 2, 3, where teaches during the predetermined time of tuning to the power-on signal source (during receiving the broadcast services of single radio station), a user preferably may override the automatically tuned signal source to receive a user's selected source).

Regarding **claim 34**, Smith discloses that the audio output is set to only output radio signals received of the predetermined frequency through an electronic setting of the audio output to the predetermined radio station (column 5, lines 28 – column 6, lines 41 and Fig. 2, 3, where teaches during the predetermined time of tuning to the power-on signal source, a user preferably may override the automatically tuned signal source to receive a user's selected source).

Regarding **claim 39**, Smith and Scrivens disclose all the limitation, as discussed in claim 27. Furthermore, Smith further teaches that an encasement with at least one promotional element thereon (Fig. 2 and column 4, lines 3 – 21, where teaches receiving useful information such that news, specific event). Smith further teaches that distributing the radio apparatus for use by one of existing and prospective listeners of the source (broadcasting the services for users) of the radio broadcast services being promoted, thereby promoting the radio broadcast services being promoted (providing the variable broadcast services such that specific events, news, traffic report, weather service, and other mobile service), thereby promoting the radio broadcast services of the single radio station (column 5, lines 27 – column 6, lines 41 and Fig. 1, 2, where teaches during the predetermined time of tuning to the power-on signal source, a user preferably may override the automatically tuned signal single radio source to receive from a radio station).

Regarding **claim 40**, Smith discloses that the radio apparatus is miniature (Fig. 1 and column 4, lines 61 – column 5, lines 25, where teaches radio could be small size).

Regarding **claim 41**, Smith discloses that the promotional element is an indicia which indicates the source of the broadcast services (column 5, lines 27 – column 6, lines 41 and Fig. 1, 2, where teaches the broadcast service depends on location, service, radio manufacturer, company).

Regarding **claim 42**, Smith discloses that the at least one promotional element is an indicia which a source of one of goods and services of another (column 5, lines 27 – column 6, lines 41, Fig. 1, 2, and column 4, lines 3 - 21).

Regarding **claim 43**, Smith discloses that the encasement further includes a second promotional element which is an indicia from a non-broadcast advertiser (displaying tuner, personal item from the memory) (column 5, lines 27 – column 6, lines 41 and Fig. 1, 2).

Regarding **claim 44**, Smith and Scrivens disclose all the limitation, as discussed in claims 27 and 39.

Regarding **claim 45**, Smith and Scrivens disclose all the limitation, as discussed in claims 27 and 39. Furthermore, Smith further teaches that the radio signal receiver is not readily changeable to output a second radio signal (Fig. 2, 3 and column 5, lines 50 – column 6, lines 28, where teaches during predetermined time of tuning to the power-on signal source, a user preferably may override the automatically tuned signal source to receive a user's selected source such that by selecting a tune up, tune down or other radio button preset key).

Regarding **claims 46, 48, and 53**, Smith discloses that the radio signal is at least one of AM and FM radio signals (column 2, lines 37 – column 3, lines 20 and Fig. 1).

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Regarding **claim 47**, Smith and Scrivens disclose all the limitation, as discussed in claims 27 and 45.

Allowable Subject Matter

4. Claims 1-26, 35-38, and 49-52 are allowed.

Claims 1-26, 35-38, and 49-52 are allowable over the prior art of record because a search does not detect the combined claimed elements as set forth in the claims 1-26, 35-38, and 49-52.

As recited in independent claims 1, 10, 19, 35, and 49, none of the prior art of record teaches or fairly suggests that a radio apparatus including an outer encasement includes a promotional identifier of one of broadcast service and a non-broadcast advertiser, a radio signal receiver secured relative to the outer encasement and configured to receive at least one of multi-frequencies radio signals, an audio output operatively connected to the radio signal receiver, and wherein the audio output is limited to a predetermined radio signal frequency representing broadcast services of a radio station, and setting the radio apparatus to provide audio output only for a predetermined radio broadcast frequency related to a source of the radio broadcast services being promoted, and together with combination of other element as set forth in the claims 1-26, 35-38, and 49-52. Therefore, claims 1-26, 35-38, and 49-52 are allowable over the prior art of records.

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5. Claims 28 – 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to disclose “promotional identifier of one of broadcast services and a non-broadcast advertiser is operatively attached to the outer encasement” as specified in the claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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or faxed (703) 308-9051, (for formal communications intended for entry)

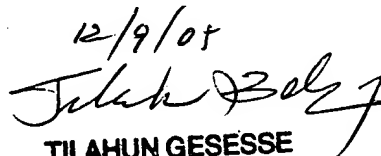
Or: (703) 308-6606 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to USPTO Headquarters, Alexandria, VA.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(571) 272-7880**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on **(571) 272-7882**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L.
December 7, 2005

John J Lee

12/9/05

TILAHUN GESESSE
PRIMARY EXAMINER